

COMMITTEE ON LAND USE
(Standing Committee of Berkeley County Council)

Chairman: Mr. Phillip Farley, Council Member District No. 1

A **meeting** of the **Committee on Land Use**, Standing Committee of Berkeley County Council, was held on Monday, **August 13, 2012**, in the Assembly Room of the Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina, at 6:09 p.m.

PRESENT: Chairman Phillip Farley, Council District No. 1; Committee Member Cathy S. Davis, Council District No. 4; Committee Member Jack H. Schurlknight, Council District No. 6; Committee Member Caldwell Pinckney, Jr., Council District No. 7; and Committee Member Steve C. Davis, Council District No. 8; ex-officios: Mr. Daniel W. Davis, County Supervisor, Mr. Timothy J. Callanan, Council District No. 2, and Mr. Dennis L. Fish, Council District No. 5; Ms. Elizabeth Cannon, Assistant County Attorney; and Ms. Catherine Windham, Interim Clerk to Council. Mr. Robert O. Call, Council District No. 3, was excused from this meeting.

County Supervisor Daniel Davis: "Before we start the meeting, I just wanted to make an announcement. For those of you who were not aware, but late Saturday night, one of our County employees, Randy Levine, who worked for Roads and Bridges, was killed in a car accident up in Cross. And, he had been with the County since 1991, 21 years, and so, I just wanted to ask everybody to keep him and his family in your prayers. Thank you."

Chairman Farley: "I'd like to call the Committee on Land Use to order."

Mr. Colin Martin gave the Invocation, and Committee Member Cathy Davis led in the Pledge of Allegiance to the Flag of the United States of America.

Chairman Farley: "Ms. Clerk, has this meeting been properly noticed via the Freedom of Information Act?"

Ms. Windham: "Yes, Sir, it has."

APPROVAL OF MINUTES

Chairman Farley: "First on the agenda is the approval of the minutes of the July 9, 2012 meeting."

It was moved by Committee Member Steve Davis and seconded by Committee Member Pinckney to **approve** the minutes, as presented. The motion passed by unanimous voice vote of the Committee.

A. Mr. Wilson Baggett, Assessor, Re: Contract with Tax Management Association to Perform Four Percent Audit

Mr. Baggett: "Mr. Chairman, thank you. Council, TMA is Tax Management Associates. They are a group out of North Carolina that performs audits on properties that are receiving illegal four percent rates in the County. They are a group that has been endorsed by the South Carolina Association of Counties, as well as Greenville, Lancaster and recently, Dorchester. Actually, within the last week, Dorchester signed on to have an audit done with their County. What we're asking Council to do tonight is to allow our office to contract with Tax Management Associates to perform an audit on parcels that are within our County that are receiving four percent illegally. Now, over the last year and a-half, our office has already been performing in-house audits on what has been described in one conversation as low-hanging fruit, individuals that, that are easily devised that have been receiving the four percent. A lot of folks over the last five years have purchased homes, moved and kept the second home as a rental, that type of thing, so that's kind of been going on. And so, we've been trying to weed those out, and we've been quite successful at it, but now, we're getting into a level where individuals are living out of state, so we have no way of tracking them inside of our state. They're living in Ohio, New York, Pennsylvania, wherever, even North Carolina, and we have no way of knowing where they're actually living. This agency, TMA, has the ability to go through LexisNexis and do audits nationwide. We will give them properties that are at four percent, they will run it through their framework and then kick out those that are potential illegal four percents. And then, we will, we will decide, the County will decide, not TMA, whether or not to roll back on their four percent for up to three years. Now, the contract with Greenville says up to ten, but we're not gonna exercise that right. We'll go three, and try to recapture the taxes that have been eluding us over the past three years."

Committee Member Steve Davis: "Mr. Chairman?"

Chairman Farley: "Go ahead, Mr. Davis."

Committee Member Steve Davis: "And, what is the projected cost for this service?"

Mr. Baggett: "There is no cost to the County upfront. I'm not asking for any money to perform the audit, but within the contract, TMA will receive thirty percent of the taxes that were found illegal. Now, we're already getting the four percent amount, so they would only get thirty percent of the amount above the four percent rate. And, it's a one-year contract, so after we find the individuals that have not been paying their fair share, after the first year, we will receive one hundred percent of the revenue beyond that. So, it's really a clean, it's a clean-up exercise, and once we're passed this first year, then it's Berkeley County, school district, city money..."

Chairman Farley: "We pay that when it's identified or when we collect it?"

Mr. Baggett: "Once it's collected, yes, Sir; it's once it's collected, yes, Sir."

Mr. Fish: "Mr. Chairman?"

Chairman Farley: "Yes, Sir."

Mr. Fish: "Wilson, what do, what do you expect from this?"

Mr. Baggett: "Well..."

Mr. Fish: "In terms of dollars or number of properties or what kind of value are we talking about?"

Mr. Baggett: "...well, it's hard to say, because we've already performed an audit internally, and we've found quite a bit, so I'm not sure how much more is out there. Honestly, it could be fifty thousand, it could be a half million, or it could be a million. I'm not sure. So, TMA is only gonna get thirty percent of what we collect, so whatever we do collect, they will get a one-time thirty percent, and then we will collect from that point forward. So, it's hard to say."

Mr. Fish: "What do they have that we can't get our hands on to get the information that we need?"

Mr. Baggett: "Well..."

Mr. Fish: "What gives them the ability to determine it better than we can?"

Mr. Baggett: "...well, because they have a national data base that I don't have access to. They have the ability to go out and search nationally, and I don't have the ability to do that. I don't have the software, I don't have the access to the national data bases that they have."

Chairman Farley: "The national data base cover, I mean, you have lost me there."

Mr. Baggett: "Well, it's – LexisNexis is a group that can perform searches outside of any region. They can go nationwide and search individuals. They can put an individual's name in and search nationwide and find where they're filing, their returns where they're filing, their vehicle returns and all of their personal returns. So, they can track, they can track an individual nationwide. They have a data base on you. They can tell where you're living, and if you have a house in North Carolina or one in South Carolina. They can tell where your tax track history is, but I don't have that ability to..."

Chairman Farley: "The City of Hanahan did ours, and they came to us. You know, we had already did the switchover to four percent. We had to do our rental at six, and of course, they also wanted the business license fee."

Mr. Baggett: "But, you're local. You're local; you're here. We can track Phillip Farley. We can track you. We can find you wherever you are in our state, because we can have access to our Department of Revenue information. We can contact them, and they can tell us where you are filing your return, but individuals who do not file returns in South Carolina, I do not have access to where they're living and find out where they're filing their returns. So, this is a clean-up. I'm not asking to do a long-term; it's just a one-year deal. We're able to clean up our system, and then from here on out, we'll have a beginning point of a cleaner, much cleaner – we'll never be 100 percent, I promise you. Individuals are just too smart, but the individuals that we need to find, we will find, and if we don't, then we're not obligated to anything."

Committee Member Steve Davis: "I move for approval."

Committee Member Schurlknight: "Second."

It was moved by Committee Member Steve Davis and seconded by Committee Member Schurlknight to **authorize** Real Property Services to enter into contract with Tax Management Associates to provide a four percent audit.

Chairman Farley: "Now, this will go forward to full Council, correct?"

Mr. Baggett: "I guess."

Chairman Farley: "All in favor..."

Mr. Callanan: "Can you do that further discussion?"

Chairman Farley: "Beg your pardon?"

Mr. Callanan: "Discussion?"

Chairman Farley: "Discussion."

Mr. Callanan: "I just have a one question on it. What about – and this is just auditing for four percent to six percent. Have we ever done anything with regards to auditing to see if a lot of these AG exemptions are legitimate or not?"

Mr. Baggett: "Yes, Sir."

Mr. Callanan: "We do that on a regular basis or do we hire someone to do it?"

Mr. Baggett: "The last time we've done that was 2004-2005."

Mr. Callanan: "And, what is some of the criteria that we have, because, you know, there are developers that are holding massive tracks of land have never any intention of harvesting timber and then call it AG."

Mr. Baggett: "It's a hard one to say they're not. If they're growing timber, it's difficult for me to say that they are not growing timber."

Mr. Callanan: "But, they're not required to harvest on any regular basis?"

Mr. Baggett: "Well, the way the statute reads, it says that the timber must be marketable. So, it you have marketable timber on your property, then..."

Mr. Callanan: "That's it?"

Mr. Baggett: "...there is no criteria for having to harvest it."

Mr. Callanan: "Ok."

Mr. Baggett: "Yeah."

Mr. Callanan: "Would this by any way, could we find somebody who's getting a four percent exemption?"

Mr. Baggett: "Are we talking about AG?"

Mr. Callanan: "No, no."

Mr. Baggett: "Four percent legal residence; ok."

Mr. Callanan: "Could this dig up folks, you know, who are not registering vehicles properly?"

Mr. Baggett: "That's part of it, yes, Sir, but those, those individuals that are registering vehicles within Berkeley or in the region, we can find those, Charleston, Dorchester. We have a lot of that, and we found those, but if folks are not registering vehicles, they could have a vehicle here. It could be a 1996 Pinto here, one car registered that they park in the garage, and they never drive. And, that's part of some of the stuff that we see, but to say it's just a vehicle not here, that's not a clean way to do it."

Mr. Callanan: "No, no, my point was, I mean, you could have certain businesses, and this came up on an issue before that they parked their vehicles here all the time. It could be a piece of equipment with wheels on it that's, that's basically here, you know, for the last 365 days, but since it has wheels on it, they have a facility in Charleston County or something like that. They register it over there, because for obvious reasons, property taxes are less. I mean, does this, would this dig up any of that or not?"

Mr. Baggett: "It could, but, but like, like I explained earlier, TMA will give us the data, and we have notes within our framework that we can rely on if we run into that situation with this individual registers their mail at their business, which we have a great deal of that. They live here in Berkeley, but they work in Charleston, and their mail goes there. We run into that all the time, and we have notes in our system that keeps us from having to go back and re-address obvious issues."

Mr. Callanan: "Alright, go get 'em."

Mr. Baggett: "Alright; thank you."

Chairman Farley: "Any more discussion?"

There was no further discussion.

The motion passed by unanimous voice vote of the Committee.

B. Review prior to Second Reading of the following:

1. **Bill No. 12-21**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, **re: James Patenaude for Yeros Investments**, located at 2509 Clements Ferry Road, Charleston, **TMS #271-00-02-045**, (5.01 ± acres), **from GC, General Commercial District, to LI, Light Industrial District**. Council District 8

It was moved by Committee Member Steve Davis and seconded by Committee Member Pinckney to **approve** review, prior to Second Reading, of Bill No. 12-21. The motion passed by unanimous voice vote of the Committee.

2. **Bill No. 12-22**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, **re: Berkeley County Council for Shelby Ann Clark**, located at 216 and 217 Kaney Lane, Moncks Corner, **TMS #141-00-02-011**, (13.52 ± acres), **from PDMU, Planned Development Mixed Use District, to F-1, Agricultural District**. Council District 6

It was moved by Committee Member Schurlknight and seconded by Committee Member Steve Davis to **approve** review, prior to Second Reading, of Bill No. 12-22. The motion passed by unanimous voice vote of the Committee.

3. **Bill No. 12-23**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, **re: Farmers and Merchants Bank**, located at 2725 South Live Oak Drive, Moncks Corner, **TMS #196-13-00-005**, (0.67 ± acre), **from R-2, Manufactured Residential District, to GC, General Commercial District**. Council District 6

It was moved by Committee Member Schurlknight and seconded by Committee Member Steve Davis to **approve** review, prior to Second Reading, of Bill No. 12-23. The motion passed by unanimous voice vote of the Committee.

C. Review prior to Third Reading of the following:

1. **Bill No. 12-17**, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, **re: William and Theresa Price**, located at 248 Harvest Road, Moncks Corner, **TMS #195-12-01-006**, (3.66 ± acres), **from R-2, Manufactured Residential District, to R-2R(F), Mobile Home Rural Farm Residential District**. Council District 6

It was moved by Committee Member Schurlknight and seconded by Committee Member Steve Davis to **approve** review, prior to Third Reading, of Bill No. 12-17. The motion passed by unanimous voice vote of the Committee.

2. Bill No. 12-18, an **ordinance** to modify the official Zoning and Development Standards Map of Berkeley County, South Carolina, **re: Ray Sedgwick**, located at 1020 English Drive (Canal Lakes Fish Camp), Cross, **TMS #031-00-03-044 and #031-00-03-045**, (10.12 ± acres), **from GC, General Commercial District (-044), and R-3, Mobile Home Park District (-045), to RNC, Rural Neighborhood Commercial District.** Council District 7

It was moved by Committee Member Pinckney and seconded by Committee Member Schurlknight to **approve** review, prior to Third Reading, of Bill No. 12-18. The motion passed by unanimous voice vote of the Committee.

3. Bill No. 12-19, an **ordinance** authorizing the County Supervisor to execute a **Quit Claim Deed** from Berkeley County to **MWV-Sheep Island, LLC**, for the property herein described as a portion of **Turtle Pond Road**.

It was moved by Committee Member Steve Davis and seconded by Committee Member Pinckney to **approve** review, prior to Third Reading, of Bill No. 12-19. The motion passed by unanimous voice vote of the Committee.

4. Bill No. 12-20, an **ordinance** approving an **amendment** to the **Planned Development Mixed Use Assessment** for **Cane Bay Plantation**, Berkeley County, South Carolina, dated January 4, 2005, as amended (the "PDMU").

It was moved by Committee Member Steve Davis and seconded by Committee Member Schurlknight to **approve** review, prior to Third Reading, of Bill No. 12-20. The motion passed by unanimous voice vote of the Committee.

It was moved by Committee Member Schurlknight and seconded by Committee Member Steve Davis to **adjourn** the meeting of the Committee on Land Use. The motion passed by unanimous voice vote of the Committee.

Meeting adjourned at 6:23 p.m.

10 September 2012
Date Approved

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Members: Mrs. Cathy S. Davis, District No. 4
Mr. Jack H. Schurlknight, District No. 6
Mr. Caldwell Pinckney, Jr., District No. 7
Mr. Steve C. Davis, District No. 8

Mr. Timothy J. Callanan, District No. 2, ex officio
Mr. Robert O. Call, District No. 3, ex officio
Mr. Dennis Fish, District No. 5, ex officio
Mr. Daniel W. Davis, Supervisor, ex officio

A **meeting** of the **COMMITTEE ON LAND USE**, Standing Committee of Berkeley County Council, will be held on **Monday, August 13, 2012**, at **6:00 p.m.**, in the Assembly Room, Berkeley County Administration Building, 1003 Highway 52, Moncks Corner, South Carolina.

AGENDA

In accordance with the Freedom of Information Act, the electronic and print media were duly notified.

INVOCATION

PLEDGE OF ALLEGIANCE TO THE FLAG OF THE UNITED STATES OF AMERICA

APPROVAL OF MINUTES: **July 9, 2012**

A. Mr. Wilson Baggett, Assessor, Re: Contract with Tax Management Association to perform 4% audit.

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August 8, 2012
S/Catherine R. Windham
Interim Clerk of County Council